IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.652 OF 2005

IN

SUMMARY SUIT NO.1852 OF 2005

K/s.Kent Ceremics Tiles & Co.Pvt.Ltd. ...Plaintiff

vs.

M/s.Canon Engineering Construction. ...Defendant.

Mr.Singh i/b. S.M.Jain, for Plaintiff.

Mr.T.G.Vora i/b. Mr.G.K.Vora, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 5th June, 2006.

P.C.:-

1. Heard the learned Counsel for both the sides. Even assuming that the defendant has good defence to defend the suit, as per the letter written by the defendant itself dated 3.7.2003 it appears that amount of Rs.1,13,465/- (Rupees One lakhs Thirteen thousand Four hundred Sixty Five only) is due from the defendant to the plaintiff. Therefore, the learned Counsel appearing for plaintiff is justified in claiming that the defendant should be granted leave to

defend the suit on his depositing the amount. The learned Counsel appearing for defendant is not in a position to deny that the defendant by letter dated 3.7.2003 has admitted that amount of Rs.1,13,465/- is payable by the defendant to the plaintiff. In this view of the matter therefore, in my opinion, the following order would meet the ends of justice:-

(i) Summons for Judgment is disposed of. The defendant is directed to deposit the amount of Rs.1,13,465/- in this Court with due intimation to the plaintiff within a period of Sixteen weeks from today. On depositing the amount, the Prothonotary and Senior Master of this Court shall invest the amount in fixed deposit in a nationalised bank during the pendency of the suit.

(ii) In case the defendant does not deposit the amount within the aforesaid period, the said summons for judgment shall stands granted and the suit shall stands decreed in terms of prayer clause (a) and (b), however, while drawing the decree the defendant shall be given credit of the amount of Rs.9,077/- for which admittedly the plaintiff has given “C Form” to the defendant.

(iii) In case the amount is deposited within the aforesaid period, the defendant will get leave to defend the suit. In that case written statement to be filed within a period of Eight weeks from the date on which leave to defend stands granted to the defendant.